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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,887	11/15/2000	Barry Jay Weber	RCA90,206	5241

24498 7590 09/08/2005

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PATENT OPERATIONS  
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PRINCETON, NJ 08543-5312

EXAMINER
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LAZARO, DAVID R

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/712,887

Applicant(s)

WEBER ET AL.

Examiner

David Lazaro

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Supplemental Action**

1. This supplemental action replaces the incorrect options regarding the reopening of prosecution after an appeal brief, as set forth in the action mailed 08/01/05. The correct options are set forth below. No other changes have been made.

2. In view of the Appeal Brief filed on 04/28/05, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

3. Claims 2-16 are pending in this office action.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-16, 2, 3, 7, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,778,187 by Monteiro et al. (Monteiro) in view of U.S. Patent 5,734,589 by Kostreski et al. (Kostreski).

6. With respect to Claim 13, Monteiro teaches a system for processing broadcast multimedia program content and advertisements to provide a composite program datastream having multimedia data content and user targeted advertisements to multiple different users (Col. 1 lines 5-15), comprising: a condition access processor operable to concurrently receive broadcast multimedia program content from multiple sources (Col. 4 lines 18-32); a scheduler operable to schedule time of insertion of a designated advertisement into selected broadcast multimedia program content (Col. 16 lines 29-40); and a multiplexer operable to provide multiple users with individualized composite program datastreams by performing in parallel for multiple users: insertion of a designated advertisement into a selected multimedia program content at a scheduled insertion time to form a composite program datastream (Col. 7 lines 60-65, *Interpreted to mean insertion may occur at the Media Server*); and coupling of said composite program datastream to a corresponding user of the multiple users (Col. 5 line 65 – Col. 6 line 5).

Monteiro does not explicitly disclose the condition access processor determining authorization of the multiple broadcast sources. Kostreski teaches a broadcast multimedia distribution system (Col. 1 lines 6-12 and Col. 3 line 66 - Col. 4 line 11) that includes a condition access processor the determines authorization of broadcast sources (VIP - video information provider). This allows the system to determine what

sources are authorized to receive the advantages provided by the system (Col. 26 lines 39-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Monteiro and modify it as indicated by Kostreski such that the system further comprises a condition access processor operable to determine authorization of multiple broadcast sources to concurrently provide broadcast multimedia program content to the system. One would be motivated to have this, as there is need for providing the advantages of the system to authorized broadcast sources for the benefit of those using the system (In Kostreski: Col. 26 lines 39-46 and Col. 3 lines 54-58).

7. With respect to Claim 14, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said conditional access processor determines authorization of a broadcast source to provide broadcast multimedia program content based on at least one of (a) a broadcaster ID, and (b) a password (In Kostreski: Col. 26 lines 39-46).

8. With respect to Claim 15, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said conditional access processor includes a decryption function to decrypt at least one of (a) encrypted broadcast multimedia program content, and (b) an encrypted authorization code or password (In Kostreski: Col. 21 lines 8-16 and Col. 25 lines 50-60).

9. With respect to Claim 16, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said multiplexer repeats said composite program

datastream by mapping stored data comprising said composite program datastream to provide multiple stored copies of said composite program datastream for coupling to multiple users to enable scaleable expansion of broadcast of said composite program datastream (Col. 5 line 65 – Col. 6 line 5 and Col. 3 lines 55-59 of Monteiro).

10. With respect to Claim 2, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said broadcast multimedia program content comprises at least one of (a) streamed audio data, (b) streamed video data, (c) voice representative data, (d) voicemail data, and (e) a radio or video broadcast (Col. 4 lines 18-32 of Monteiro).

11. With respect to Claim 3, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said scheduler receives and pre-caches advertisements from multiple sources to provide candidate advertisements for selection of said designated advertisement for insertion in said selected multimedia program content at said scheduled insertion time (Col. 4 lines 43-54 and Col. 1 lines 11-15 of Monteiro).

12. With respect to Claim 7, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said multiplexer repeats said composite program datastream by mapping stored data comprising said composite program datastream to provide multiple stored copies of said composite program datastream for coupling to multiple users to enable scaleable expansion of broadcast of said composite program datastream (Col. 5 line 65 – Col. 6 line 5 and Col. 3 lines 55-59 of Monteiro).

13. With respect to Claim 8, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches said multiplexer tracks a user connection (Col. 8 lines

4-11 and Fig. 5 of Monteiro) and maintains a database of user connection related statistics (Col. 3 lines 39-54 of Monteiro) comprising at least one of (a) user favorite program sources (Col. 3 lines 50-54 of Monteiro), (b) number of advertisements broadcast (See Claim 5 and 6 of Monteiro), (c) number of users receiving said composite program datastream (Col. 3 lines 42-44 of Monteiro), and (d) length of user connection to a particular composite program datastream (Col. 3 lines 50-54 of Monteiro).

14. With respect to Claim 12, Monteiro in view of Kostreski teaches all the limitations of Claim 13 and further teaches a user profile database operable to allocate one of a plurality of available different advertisements for delivery to an individual user based on previously compiled user preference data in said user profile database (Col. 16 lines 34-41 of Monteiro); and a data acquisition processor operable to compile user preference information used in said user profile database based on prior user program selection history (Col. 16 lines 34-41 of Monteiro).

15.

16. Claims 4-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro in view of Kostreski as applied to claim 13 above, and further in view of U.S. Patent Application Publication 2001/0023436 by Srinivasan (Srinivasan).

17. With respect to Claim 4, Monteiro in view of Kostreski teaches all the limitations of Claim 13 but does not explicitly disclose scheduling information provided by either a broadcast source or a source of the designated advertisement.

Srinivasan teaches in a similar system that the scheduling information for insertion of a designated advertisement can be provided either by the broadcast source of a selected broadcast program, the advertisement source, or by any other prior arrangement (Page 17 [0198]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Monteiro in view of Kostreski and modify it as indicated by Srinivasan such that said scheduler schedules insertion of said designated advertisement into said multimedia program content based on at least one of (a) scheduling information provided by a broadcast source of said selected broadcast multimedia program, and (b) scheduling information provided by a source of said designated advertisement. One would be motivated to have this since it is a common way for content providers to sell advertising slots (Page 17 [0198] of Srinivasan).

18. With respect to Claim 5, Monteiro in view of Kostreski and in further view of Srinivasan teaches all the limitations of Claim 4 and further teaches said scheduling information contains advertisement scheduling information covering multiple broadcast multimedia programs (Page 17 [0198] of Srinivasan).

19. With respect to Claim 6, Monteiro in view of Kostreski and in further view of Srinivasan teaches all the limitations of Claim 4 and further teaches said scheduling information provided by a broadcast source comprises at least one of (a) information indicating time slots available for advertisement insertion in said broadcast multimedia program (Page 17 [0198] of Srinivasan), (b) markers in said selected broadcast multimedia program indicating an advertisement insertion time slot (Page 10 [0112] of



Srinivasan), and (c) information for identifying advertisement insertion time slots from time stamp indications (Page 20 [0228] of Srinivasan).

20. With respect to Claim 9, Monteiro in view of Kostreski teaches all the limitations of Claim 13 but does not explicitly disclose dynamically reallocating advertisements targeted to a user during broadcast in response to a command by selecting an advertisement from a plurality of available advertisements of a suitable duration.

Srinivasan teaches dynamically reallocating advertisements targeted to a user during broadcast in response to a command by selecting an advertisement from a plurality of available advertisements of a suitable duration (Page 18 [0204] and Page 19 [0215]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Monteiro in view of Kostreski and modify it as indicated by Srinivasan such that said multiplexer dynamically reallocates advertisements targeted to a user during broadcast of said composite program datastream in response to a command by selecting an advertisement from a plurality of available advertisements of duration suitable for a time slot at said scheduled insertion time. One would be motivated to have this as this allows for better targeting of advertisements based on the latest user statistics (Page 19 [0215]).

21. With respect to Claim 10, Monteiro in view of Kostreski and in further view of Srinivasan teaches all the limitations of Claim 9 and further teaches a locally source advertisement is selected for said time slot in preference to a non-locally sourced advertisement (Page 16-17 [0192] of Srinivasan).

Art Unit: 2155

22. With respect to Claim 11, Monteiro in view of Kostreski and in further view of Srinivasan teaches all the limitations of Claim 10 and further teaches an error processor operable to parse said composite program datastream to detect error, and including an error concealment function operable to reduce the consequences of a detected error (Col. 7 lines 12-31 of Monteiro).

### ***Response to Arguments***

23. Applicant's arguments in the Appeal Brief filed 04/28/05, with respect to the rejection(s) of claim(s) 2, 3, 7, 8 and 12-16 under 35 U.S.C. 103(a) based on Monteiro in view of Broadhurst and claims 4-6 and 9-11 under 35 U.S.C. 103(a) based on Monteiro in view of Broadhurst and in further view of Srinivasan, have been fully considered and are persuasive, particularly in regards to the Broadhurst reference (U.S. Patent 6,205,480). Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent 5,734,589 by Kostreski et al.


### ***Conclusion***

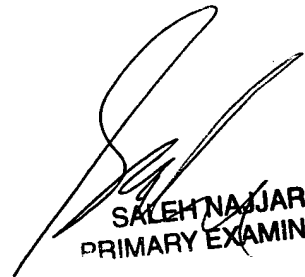
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

Art Unit: 2155

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David Lazaro  
September 6, 2005

  
SALEH NAJJAR  
PRIMARY EXAMINER